



# Joint Meeting of Great Falls City Commission, Cascade County Commission and Local Legislators

## Special Work Session Agenda

Great Falls Civic Center, Gibson Room  
No. 2 Park Drive South, Great Falls, MT

Tuesday, March 5, 2019

3:00 p.m. – 4:30 p.m.

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### Invitees:

#### Montana Senators and Representatives in the Great Falls/Cascade County area:

Fred Anderson, HD 20	Tom Jacobson, SD 11
Ed Buttrey, HD 21	Steve Fitzpatrick, SD 10
Ross Fitzgerald, HD 17	Brian Hoven, SD 13
Brad Hamlet, HD 23	Russ Tempel, SD 14
Llew Jones, HD 18	Carlie Boland, SD 12
Wendy McKamey, HD 19	Ryan Osmundson, SD 15
Jasmine Krotkov, HD 25	Bruce "Butch" Gillespie, SD 9
Barbara Bessette, HD 24	
Casey Schreiner, HD 26	
Lola Sheldon-Galloway, HD 22	
Joshua Kassmier, HD 27	

**Great Falls City Commission:** Mayor Bob Kelly, Commissioners Bill Bronson, Mary Moe, Owen Robinson, Tracy Houck

**City Manager,** Greg Doyon

**Board of Cascade County Commissioners:** Chairman Joe Briggs, Jane Weber, Jim Larson

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### Goals of this meeting:

- Gain understanding of how Bills in the 66<sup>th</sup> Legislative Session may impact local government
- Clarify the intent of certain Bills in the 66<sup>th</sup> Legislative Session

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| 1. Welcome and Introductions  | City Mayor, Bob Kelly  |
| 2. Public Comment   | City Commissioner, Bill Bronson                                    |
| 3. 2019 Legislative Bills affecting Local Government <ul style="list-style-type: none"><li>• City of Great Falls</li><li>• Cascade County</li></ul> | City Commissioner, Bill Bronson<br>County Commissioner, Jane Weber |
| 4. Questions from Legislators   | All Legislators  |
| 5. Thank you and Wrap Up  | City/County Commissioners  |

NOTE: This meeting is an "informal" meeting of the City Commission and County Commission.  
The content of the Agenda is subject to change at the meeting.

## Transmittal Break – March 2019 66<sup>th</sup> Legislative Session

### Legislation affecting the Cascade City-County Board of Health

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MCA §50-2-116 defines the powers and duties of local Boards of Health. As such, the BOH role is to *identify, assess, prevent and ameliorate conditions of public health importance* through public health measures as allowed by law. MCA §50-40-102 defines the intent of the Montana Clean Indoor Air Act to *protect the public health and welfare by prohibiting smoking in public places and places of employment*. Under MCA §50-40-108, the Department of Health and Human Services and local boards of health have the authority to supervise and enforce the MCIAA.

Following are key positions the Cascade City County Board of Health has taken on key legislation.

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**1. HB 481: An Act revising the Clean Indoor Air Act Relating to Private Establishments**

**OPPOSE**

Primary Sponsor: Wylie Galt, HD 30, Martinsdale

The Board of Health opposes HB 481 which adds an exemption to the Montana Clean Indoor Air Act (MCIAA) and undermines its intent by allowing private social (smoking) clubs and exposing employees and patrons to the detrimental effects of secondhand smoke. While these establishments will be dubbed “private,” the term “private” does not specifically exempt an establishment from compliance with the MCIAA. This is a retrograde effort to diminish the MCIAA little-by-little and provide economic gain for tavern owners who could create a space within their establishments and classify it as a “private” social club; allow free admission and permit open smoking within that space. The legislative language is vague; but its purpose is obvious. No one goes to a private social club simply to smoke when they could smoke in the convenience of their own home. The emphasis should be placed on the term “social.” There is no economic incentive for an entrepreneur to establish a “private social club” if only smoking occurs. No doubt, these “private social clubs” will serve beverages, possibly even food, requiring employees to provide this service to smoking patrons. No employees, whether serving beverages/food or providing janitorial services within a facility, should be required to be exposed to the unhealthy effects of secondhand smoke. Employees are to be protected under the MCIAA. This exemption eliminates those protections.

It is a well-known fact that secondhand smoke leads to chronic respiratory issues like asthma, COPD, and more serious illnesses like cancers and heart disease. The unhealthy effects of smoking and/or secondhand smoke cannot be denied and each of us has been touched by a parent, grandparent, or friend who has suffered from the debilitating effects of first-hand or secondhand smoke.

This exemption also removes current protections for non-smokers in public places where shared space occurs. Because these private social club rooms might locate in buildings where ventilation is shared throughout the larger building, smoke will undoubtedly infiltrate to other sectors of a building. A private social club established in downtown Missoula was co-located in the same building as the Missoula Children’s Museum. Their BOH received numerous complaints from employees and patrons of the museum and concern for the children being exposed to secondhand smoke. A judge in the case noted that private clubs are not specifically exempt from the MCIAA and concurred with the BOH that the cigar club and museum shared the same air space. The judge wrote, “*even if an entity can rightly claim to be a private club, smoking can still be prohibited within the space it uses if the space otherwise meets the definition . . . if an enclosed space shares the same indoor air space as a public space, the prohibitions of the MCIAA would clearly apply to both spaces.*”

This exemption also lacks clarity of where and when these “private social smoking clubs” can occur. The language does not restrict entry to these establishments. Children of the patrons are not limited from accompanying their parents to the private social club, thereby exposing them to the documented harmful effects of secondhand smoke. Research shows, children are known to have increased risk of respiratory



infections, heightened symptoms related to asthma and even sudden infant death SID from exposure to second-hand smoke.

This bill is clearly an intent to circumvent the MCIAA. Non-smoking tavern owners who have been exposed to secondhand smoke in their establishments prior to the passage of the MCIAA attribute physical impairments like COPD, heart and other health issues to consistent exposure to secondhand smoke. The BOH does not want to undermine the MCIAA and reinstate a known health hazard for our citizens. Passage of this bill would undo the positive outcomes and decent behavior of tavern owners who comply with the MCIAA.

This bill passed on third reading in the House 52-46 and is currently scheduled for a hearing in the Business, Labor and Economic Affairs Committee on March 14, 2019.

## **2. SB 179: An Act prohibiting the expansion of prohibitions under the Clean Indoor Air Act**

**OPPOSE**

Primary Sponsor: Douglas Kary, SD 22, Billings

The Board of Health (BOH) opposes SB 179 which is designed to emasculate the authorities of the BOH and specifically limit the Boards from fulfilling their mandated purpose under MCA §50-2-116 to protect the health of Montana citizens. MCA §50-2-116 establishes the duties of the local Boards of Health, legislatively empowering them to perform, oversee and implement with regard to carrying out the purposes of the public health system.

The intent of the Montana Clean Indoor Air Act (MCIAA), MCA §50-4-102 is to protect the public health and welfare by prohibiting smoking in public places and places of employment. The MCIAA is properly sited under Title 50: Health and Safety; and specifically, MCA §50-40-108 identifies the DPHHS and Boards of Health to supervise and enforce the MCIAA since the roles and responsibility of the local Boards of Health align with protecting public health.

This amendment usurps the BOH's ability to adopt a rule or ordinance prohibiting smoking in places other than an enclosed public place and shifts that responsibility to City or County Commissions. This issue is a health issue, not a political issue, and the Boards of Health are integrally familiar with the MCIAA, serving as the community's link to healthy living. BOH members consist of a City Commissioner, County Commissioner, a city-appointed representative, a county-appointed representative, a physician, a dentist, and the Superintendent of Great Falls Public Schools. This body is most knowledgeable with the issues of public health and the intent of the MCIAA. And fundamentally, a majority of the BOH membership is already aligned with either the city or county commissions as elected officials or appointed representatives. Having two members from the medical field and the Superintendent of Schools as the remaining BOH members provides direct linkage to the health profession and the greater community. Circumventing the role of the BOH is simply unacceptable practice and placing it in the hands of elected officials implies a community's health is secondary to the politics within a community.

In the interest of transparency, the Cascade City-County BOH, after multiple public meetings and a public hearing, established clarifying language on the application of the MCIAA for local taverns. Many tavern owners have thanked the Cascade City-County BOH and appreciated the clarity provided in the 2015 Regulation titled "Cascade City-County Board of Health Regulation Re: Montana Clean Indoor Air Act and Smoking Shelters." The regulation provides guidance on the definition of a smoking shelter and ensures patrons of local taverns will breathe clean air while enjoying their favorite beverage. It does not unduly or unfairly impose requirements but protects the health of citizens within our county – the role of the Board of Health. Compliance with this regulation does not require law enforcement engagement. The County Attorney's office prepares notices or takes proper measures to ensure compliance when a validated violation is confirmed. SB 179 has a retroactive clause negating all previous actions of the BOH applicable to the MCIAA. This action would nullify the existing regulations enacted by the Cascade City-County BOH and the legal actions being taken by the BOH in relation to the MCIAA.

Simply put, SB 179 will remove the ability of the BOH to conduct its responsibility of protecting the health of our citizens.

This bill passed on third reading in the Senate on a vote of 30-20 and is currently scheduled for a hearing in the House Local Government Committee on March 12, 2019.



### 3. **HB 516: Provide small herd exemption for raw milk producers**

**OPPOSE**

Primary Sponsor: Nancy Ballance, HD 87, Hamilton

The Board of Health opposes HB 516, because it exposes individuals and communities to the spread of infectious or communicable disease caused by unsafe milk known to harbor dangerous pathogens that cause foodborne illnesses. When a foodborne illness occurs, the staff of the Cascade City-County Health Department (CCHD) are tasked with the responsibility of tracking the source of foodborne illnesses and contacting anyone who may have consumed tainted food products. The dedicated health officials at the CCHD take this responsibility very seriously, as it may prevent hospitalization or even the death of a citizen if notifications are not made. One outbreak can cost the taxpayers thousands of dollars for tracking and notifications. A 2008 outbreak of *E. coli* in a community due to unpasteurized milk cost one local agency over \$400,000. Hospitalizations can cost a victim of a foodborne illness over \$50,000.

This proposal is not new and was defeated in previous legislative sessions. This law would allow the sale of raw milk in Montana, essentially legalizing the distribution of an unsafe food product. Those most susceptible are the elderly, individuals with compromised immune systems due to other health issues, and the very young whose immune systems are not fully developed.

Unpasteurized milk has a higher possibility of containing pathogens like *E. coli*, *Salmonella spp*, *Listeria monocytogenes*, and *Campylobacter*. The probability of hospitalization due to unpasteurized milk is 13 times more than with pasteurized milk products. In states where unpasteurized milk has been legalized, they have seen higher rates of illnesses. In places where unpasteurized milk is allowed, the number of illnesses due to unpasteurized milk has quadrupled. And, the last time unpasteurized milk was legally sold in Montana, an outbreak of *Salmonella* affected over 100 victims – many under the age of 14 years old. This *Salmonella* outbreak occurred even though the milking and sanitary standards appeared to have been followed.

This bill would allow a large amount of milk to be sold under an exemption – about 70 gallons of unpasteurized cow's milk each day. The risk of illness would be substantial. Additionally, this unpasteurized milk could be utilized in the production of cheese or ice cream, further increasing the risk of illnesses. Additionally, the language in this bill does not provide enough control over the manufacture of such products, and essentially handicaps the Department of Livestock from making rules to ensure proper health oversight of these types of products.

We simply cannot take the chance of causing serious harm to susceptible children whose parents unknowingly expose them to foodborne illnesses; individuals with compromised immune systems due to other conditions; or the elderly whose immune systems are weakened.

This bill was tabled in the House Agriculture Committee on February 19, 2019.

The Cascade City-County Board of Health is committed to tracking legislative actions that may affect the public health of our communities. We are available for questions on evolving legislation. Please contact us .

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CITY-COUNTY HEALTH DEPARTMENT

115 4<sup>th</sup> Street South • Great Falls, Montana 59401 • (406) 454-6950

The Honorable Mike Lang, Chairman  
Senate Local Government Committee  
Montana Senate  
PO Box 200500  
Helena, MT 59620-0400

Via Email – <https://leg.mt.gov/web-messaging/>

RE: SB 179 – An Act Prohibiting the Expansion of Prohibitions Under the Montana Clean Indoor Air Act Without Approval By Certain Elected Officials; Amending Section 50-40-108, MCA; and Providing a Retroactive Applicability Date

Dear Chairman Lang and Members of the Senate Local Government Committee:

The Cascade City County Board of Health (BOH) was stunned to learn on Tuesday, February 5, 2019, that SB 179 had been presented for consideration and amended with a retroactivity provision. Passage of SB 179 on February 6, 2019 with the proposed amendment to MCA § 50-40-108 is an affront to the basic responsibilities of the Montana BOHs. SB 179 represents such significant concern to the BOH that a special meeting was immediately arranged for Friday, February 8, 2019, for the BOH to discuss the proposed amendment to MCA § 50-40-108. By unanimous vote following that discussion, I have been tasked with conveying to you in the strongest terms the Cascade City County Board of Health's request that you vote **NO** on SB 179.

I believe that it is important to note that MCA § 50-2-116 establishes a myriad of duties that local boards of health are legislatively empowered to perform, oversee and implement with regard to carrying out the purposes of the public health system. The purpose of the public health system as set forth at MCA § 50-1-105(2), provides as follows:

- (2) The purpose of Montana's public health system is to provide leadership and to protect and promote the public's health by:
  - (a) promoting conditions in which people can be healthy;



- (b) providing or promoting the provision of public health services and functions, including:
- (i) monitoring health status to identify and recommend solutions to community health problems;
  - (ii) investigating and diagnosing health problems and health hazards in the community;
  - (iii) informing and educating individuals about health issues;
  - (iv) coordinating public and private sector collaboration and action to identify and solve health problems;
  - (v) developing policies, plans, and programs that support individual and community health efforts;
  - (vi) implementing and enforcing laws and regulations that protect health and ensure safety;
  - (vii) linking individuals to needed personal health services and assisting with needed health care when otherwise unavailable;
  - (viii) to the extent practicable, providing a competent public health workforce;
  - (ix) evaluating effectiveness, accessibility, and quality of personal and population-based health services; and
  - (x) to the extent that resources are available, conducting research for new insights on and innovative solutions to health problems;
- (c) encouraging collaboration among public and private sector partners in the public health system;
- (d) seeking adequate funding and other resources to provide public health services and functions or accomplish public health system goals through public or private sources;
- (e) striving to ensure that public health services and functions are provided and public health powers are used based upon the best available scientific evidence; and
- (f) implementing the role of public health services and functions, health promotion, and preventive health services within the state health care system.

In carrying out the important purposes behind the public health system, local boards of health are sanctioned under MCA § 50-2-116(1) to:

- (a) appoint and fix the salary of a local health officer who is:
- (i) a physician;
  - (ii) a person with a master's degree in public health; or
  - (iii) a person with equivalent education and experience, as determined by the department;
- (b) elect a presiding officer and other necessary officers;
- (c) employ qualified staff;
- (d) adopt bylaws to govern meetings;
- (e) hold regular meetings at least quarterly and hold special meetings as necessary;
- (f) identify, assess, prevent, and ameliorate conditions of public health importance through:



- (i) epidemiological tracking and investigation;
  - (ii) screening and testing;
  - (iii) isolation and quarantine measures;
  - (iv) diagnosis, treatment, and case management;
  - (v) abatement of public health nuisances;
  - (vi) inspections;
  - (vii) collecting and maintaining health information;
  - (viii) education and training of health professionals; or
  - (ix) other public health measures as allowed by law;
- (g) protect the public from the introduction and spread of communicable disease or other conditions of public health importance, including through actions to ensure the removal of filth or other contaminants that might cause disease or adversely affect public health;
- (h) supervise or make inspections for conditions of public health importance and issue written orders for compliance or for correction, destruction, or removal of the conditions;
- (i) bring and pursue actions and issue orders necessary to abate, restrain, or prosecute the violation of public health laws, rules, and local regulations;
- (j) identify to the department an administrative liaison for public health. The liaison must be the local health officer in jurisdictions that employ a full-time local health officer. In jurisdictions that do not employ a full-time local health officer, the liaison must be the highest ranking public health professional employed by the jurisdiction.
- (k) subject to the provisions of 50-2-130, adopt necessary regulations that are not less stringent than state standards for the control and disposal of sewage from private and public buildings and facilities that are not regulated by Title 75, chapter 6, or Title 76, chapter 4. The regulations must describe standards for granting variances from the minimum requirements that are identical to standards promulgated by the board of environmental review and must provide for appeal of variance decisions to the department as required by 75-5-305. If the local board of health regulates or permits water well drilling, the regulations must prohibit the drilling of a well if the well isolation zone, as defined in 76-4-102, encroaches onto adjacent private property without the authorization of the private property owner.

Further, pursuant to MCA § 50-2-116(2), local boards of health may:

- (a) accept and spend funds received from a federal agency, the state, a school district, or other persons or entities;
- (b) adopt necessary fees to administer regulations for the control and disposal of sewage from private and public buildings and facilities;
- (c) adopt regulations that do not conflict with 50-50-126 or rules adopted by the department:
  - (i) for the control of communicable diseases;
  - (ii) for the removal of filth that might cause disease or adversely affect public health;
  - (iii) subject to the provisions of 50-2-130, for sanitation in public and private buildings and facilities that affects public health and for the maintenance of sewage treatment systems that do not discharge effluent



directly into state water and that are not required to have an operating permit as required by rules adopted under 75-5-401;

(iv) subject to the provisions of 50-2-130 and Title 50, chapter 48, for tattooing and body-piercing establishments and that are not less stringent than state standards for tattooing and body-piercing establishments;

(v) for the establishment of institutional controls that have been selected or approved by the:

(A) United States environmental protection agency as part of a remedy for a facility under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601, et seq.; or

(B) department of environmental quality as part of a remedy for a facility under the Montana Comprehensive Environmental Cleanup and Responsibility Act, Title 75, chapter 10, part 7; and

(vi) to implement the public health laws; and

(d) promote cooperation and formal collaborative agreements between the local board of health and tribes, tribal organizations, and the Indian health service regarding public health planning, priority setting, information and data sharing, reporting, resource allocation, service delivery, jurisdiction, and other matters addressed in this title.

Further yet, a local board of health may, pursuant to MCA § 50-2-116(3), “**provide, implement, facilitate, or encourage other public health services and functions as considered reasonable and necessary.**” (Emphasis added.) I appreciate that the foregoing recital of just two (2) of Montana’s statutes applicable to local boards of health are lengthy. I provide them herein to emphasize the tremendous legislative and practical duties and responsibilities bestowed and entrusted to local boards of health when it comes to the vast and important issues of public health.

In adopting the Montana Clean Indoor Air Act (MCIAA or Act), the legislature, at MCA § 50-40-102 declared a three-fold purpose for doing so. The first and preeminent finding and declaration of the legislature in establishing the Act was “**to protect the public health and welfare by prohibiting smoking in public places and places of employment**”. MCA § 50-40-102(1), emphasis added. Given the foremost purpose of the Act pertaining protection of public health, the Act is properly situated within the Montana Code under Title 50, which deals with Health and Safety. That the proposed amendment would otherwise restrict a local board of



health's statutorily divined role in protecting the public health by limiting its ability to adopt a rule or ordinance prohibiting smoking in places other than in an enclosed public place is, frankly, an irrational proposition. The governing city council, city commission, or board of county commissioners is not better situated to protect the public health in general, let alone under the Act.

Looking at the membership of Boards of Health it is important to note that with regard to a County board of health, pursuant to MCA § 50-2-104(1)(a) the board includes the county commissioners in addition to two (2) other members appointed by the County Commissioners and who serve at the pleasure of the county commission. In examining the membership of a City board of health, pursuant to MCA § 50-2-105(1) all members of the City board of health are appointed by the city governing body and serve at its pleasure. Finally, with regard to a City-County board of health, which is the model in Cascade County which I chair, pursuant to MCA § 50-2-106, the city and county commissioners each appoint members who serve at the pleasure of the governing body. In Cascade County, a City Commissioner and County Commissioner each hold a membership seat on the board. Consequently, when examining the operational structure of boards of health throughout the State, the governing city council, city commission, or board of county commissioners is either actually serving on the BOH or hand picked by the governing body to do so. Consequently, the wishes of the governing city council, city commission, or board of county commissioners is met through the selection and placement of representatives on the board of health.

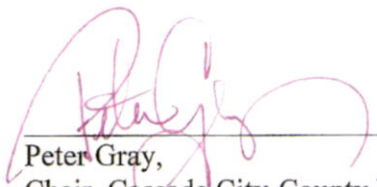
Moreover, the Board of Health, like the governing city council, city commission, or board of county commissioners is an Agency as defined by MCA § 2-3-102(1). As an Agency under Montana law, boards of health are subject to the State and Constitutional requirements for open meetings pursuant to MCA §§ 2-3-101 and 2-3-203, public participation in its meetings pursuant to MCA § 2-3-103, publication of agendas pursuant to MCA § 2-3-202, public participation



pursuant to MCA § 2-3-111, the taking, recording and filing of board minutes pursuant to MCA § 2-3-212.

Looking at the amendment as proposed, it seeks to illogically remove an important regulatory tool from the arsenal boards of health which clearly limits the boards of health in their primary role of protecting and promoting the public's health – including the specific responsibility of protecting the public's health and welfare by prohibiting smoking in public places and places of employment – by directing such responsibility to governing city council, city commission, or boards of county commissioners, who do not have primacy under State law to protect and promote the public's health. Local boards of health have the voice of the governing city council, city commission, or board of county commissioners through either actual service on the board of health or via hand-picked appointees. And, as Agencies under state law, local boards of health are held to the same exacting accountability standards as governing city council, city commission, or board of county commissioners with regard to conducting their official business through open meetings, publicly noticed agendas and meetings and public participation. SB 179 does not protect Montanan's rights under the Act; it emasculates local boards of health by limiting their important duty and responsibility under MCA § 50-2-116 and the Act to protect public health.

Again, on behalf of the Cascade City-County Board of Health, I urge you to vote **NO** on SB 179. Please contact me if you have any questions or require additional information.

  
\_\_\_\_\_  
Peter Gray,  
Chair, Cascade City-County Board of Health

12 Feb 2019  
Date

Cc: Senators Doug Kary, Terry Gauthier, Gene Vuckovich, Jason Ellsworth, Jennifer Fielder, Steve Fitzpatrick, Margie MacDonald, Nate McConnell, Jon Sesso, Roger Webb



## **MEMORANDUM**

*From:* Great Falls City Commission

*To:* Cascade County Legislative Delegation

*Subject:* Legislation of Interest to the City of Great Falls

*Date:* March 5, 2019

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The City of Great Falls, working primarily through the Montana League of Cities and Towns [MLCT], has been monitoring several bills this session. The following is a list of some of the more significant bills that we continue to monitor and either support or oppose.

This list is not exclusive; City Commissioners will likely be contacting you either individually or collectively about other legislation during the remainder of this session.



**BILLS/LEGISLATION CURRENTLY BEFORE**  
**THE MONTANA SENATE:**

*Tax Increment Financing [TIF]:*

**HB 462 (Burnett):**

We opposed this bill in committee; subsequent amendments resolve some issues for us, but other remain. We will be working with the Senate Committee to address those remaining concerns.

**SB 321 (Hoven):**

Senator Hoven shared an initial draft of his legislation [LC 2872], which we much appreciate. This draft raised several concerns. We are now reviewing changes in the introduced version of the bill, and hope to work with the sponsor as the bill progresses to hearing.

*Land Use, Planning, and Housing*

**HB 16 (Fern):**

This is the proposal for utilizing the coal tax trust fund as backing for affordable housing programs. We continue to support this legislation now that it has passed the House.

**HB 236 (Fern):**

This bill generally revises laws governing local government building code programs, and allowing local governments to accumulate fees and charges necessary for building code enforcement for an increased period of time. We support this bill in its current form.

*Taxation and Fees:*

**HB 331 (Fitzgerald):**

This bill authorizes municipalities to establish, adjust and collect rates, rentals and charges for solid waste services. It was well received in the House, and has been referred to Senate Local Government for consideration. We support this legislation.

*Infrastructure*

MLCT has been monitoring on our behalf proposals related to infrastructure funding, particularly Rep. Moore's **HB 553**. As there has been no presentation or offering as yet related to *specific* local government projects, we have not weighed in with you as the local delegation. We are waiting to see what develops and will be contact with you as more details on local government projects come to light.

**BILLS/LEGISLATION CURRENTLY BEFORE**  
**THE MONTANA HOUSE OF REPRESENTATIVES**

*Entitlement Program:*

We remain concerned about proposals to utilize a portion of the entitlement program share to fund the public defender program. We understand that there is some talk of *studying* this issue during the next biennium, and this would certainly be worthwhile, as we believe it would serve to dispel myths related to claims about local government law enforcement and impacts related to the public defender program.



## *Taxation*

### **HB 300 (White):**

While cities and towns generally look forward to comprehensive discussion over changes in our tax system, this statewide sales-tax proposal is not where we want to go in the future.

### **SB 315 (Sales)**

This proposal is related to the conversations/work taking place related to appropriations and the entitlement program and funding for OPD. Amendments to the bill in the Senate address most of the issues we have locally, but we are still concerned about adopting legislative solutions until there has been an opportunity for a full study of claims being made about demands on OPD services.



Transmittal Break  
2019 Montana Legislation  
66<sup>th</sup> Legislative Session



Legislation affecting the Cascade County Region

**Unified Philosophy:** Great Falls City and Cascade County Commissioners generally oppose legislation that shifts or increases the burden of financing core local government services or mandating new requirements without ensuring appropriate funding sources to pay for those services.

Cascade County is affiliated with the Montana Association of Counties (MACo) to advance and protect the interests of residents within the City and County. Our residents justifiably expect the local government to provide critical public services at a reasonable cost.

Following are key issues for Cascade County and MACo positions on bills affecting county government.

**1. SB 291: An Act revising Voting Systems and Ballot Form; Accessible Voter Interface Devices** **SUPPORT**

Primary Sponsor: Fred Thomas, SD 44, Stevensville

Cascade County supports the mandate at least one voter interface device with appropriate security screening of the device is available at each polling place to ensure disabled electors have access to voting technology allowing them to cast ballots independently, privately and securely. The secrecy of these voting ballots is considered high importance to the County Commissioner and County Elections official. The County also concurs that the Voter Interface Device shall meet the electronic security standards adopted by the Secretary of State.

This bill passed on third reading in the Senate 49-1 and is currently in the House State Administration Committee, having had its first reading on February 28, 2019.

**2. HB 15: An Act revising County Motor Vehicle Recycling and Disposal Laws** **SUPPORT**

Primary Sponsor: Willis Curdy, HD 98, Missoula

Cascade County supports allowing the county to remove and dispose of abandoned uninhabitable trailers (junk mobile homes) from both private property (with permission of the owner) and from public property (provided proper notifications have been attempted). If on public property, the county may require the owner to reimburse the cost of transport and disposal. This bill allows county action on junk mobile homes that have become an attractive nuisance to children and nesting home for rodents and wild animals. It also establishes a junk vehicle advisory group under the DEQ to evaluate the changes implemented in the MCA; the financial impacts on state and county funds; ways to address recycling and disposal of junk mobile homes and junk nonmotorized vehicles; and payments to private sector partners for towing costs associated with the abandoned junk vehicle program. The bill terminates on June 30 2021.

This bill passed on third reading in the House on a vote of 63-37 and is currently in the Senate Local Government Committee, having had a hearing on February 20, 2019.

**3. HB 105: Reciprocity for Practitioners Licensed in Other States** **SUPPORT**

Primary Sponsor: Katie Sullivan, HD 89, Missoula

Cascade County supports the concept of requiring professional and occupational licensing boards to license out-of-state applicants with equivalent licenses who are affiliated with the military assigned to MAFB, as spouses or dependents of active military service men and women. This bill will enable dependents/spouses the opportunity to seek gainful employment in their specialty field if the applicant affirms verification from the state or states in which they are currently licensed is substantially equivalent to or greater than the licensing standards in Montana. The Pentagon and the Air Force have identified the lack of professional reciprocity as a significant issue. Air force spouses/partners who hold professional certifications such as nursing, physical therapist as well as CPA's, attorneys and others are unable to transfer their credentials between states. As a result, there are many professionals in the Great Falls area who are unable to practice in their existing



professional field. Since many of the Air Force personnel rotate on a twenty-four-month cycle, it is not cost effective for them to recertify in each new state which they are relocated.

The result is a decrease in location satisfaction for the spouses/partners which in turn translates to a reduced job satisfaction for the military member. It also hampers badly needed professionals from entering our workforce. The ability of our incoming military families to utilize their professional experience/licensure to find meaningful employment contribute to the local workforce, will be a bonus for Cascade County.

HB 105 only applies to MCA Title 37, relating to professional certifications managed by appointed industry peer boards, it does not apply to teacher certifications (codified in MCA Title 20, Chapter 4).

This bill has passed on third reading in the House on a vote of 97-3 and Executive Committee Action in the Senate Business, Labor and Economic Affairs Committee on a vote of 10- 0 on February 21, 2019.

**4. HB 190: Allowing Local Authority to Set a Speed Limit without an Engineering Study**

**SUPPORT**

Primary Sponsor: Bruce Grubbs, HD 68, Bozeman

Cascade County supports the ability of local government officials to set the speed limits for school zones and near Senior Citizen Centers to not less than 15 miles/hour without an engineering and traffic investigation. This bill would enable the county commissioners to set those speed limits without having to wait for an engineering analysis. Also, the county has experience where an engineering/traffic investigation involves the use of a radar gun to measure and track the real-time speeds of drivers through these "zones." Often, these real-time speed measures result in an INCREASE rather than a decrease to speed limits. This authority applies to county roads only and would affect speed limits on roads like the Ulm School.

This bill passed on third reading in the House on a vote of 85-15 and was referred to the Senate Highways and Transportation Committee on February 12, 2019.

**5. SB 224: Increasing the Fine for Encroachments on Highway Roadways**

**SUPPORT**

Primary Sponsor: Tom Jacobson, SD 11, Great Falls

Cascade County supports this action to increase the penalty for failure to promptly remove an encroachment from a county roadway from \$10.00/day to up to \$80.00/day for each day the encroachment remains in place. In some counties, private parties have fenced or gated public county roadways and the incentive to remove that obstruction is negligible. An increase of up to \$80/day increases the likelihood of removal compliance.

This bill passed on Executive Action from the Senate Highways and Transportation Committee on a vote of 6-4 and has been amended to decrease the fine to \$80/day.

**6. HB 299: Removal of the \$250,000 Cap on InterCap Loans for RSID Projects**

**SUPPORT**

Primary Sponsor: Jasmine Krotkov, HD 25, Great Falls

Cascade County supports the removal of the cap imposed by the existing MCA to allow more flexibility when financing road projects. Rather than the County having to finance the entirety of an RSID upfront, the citizens within the RSID area can instead repay a possible loan from the INTERCAP fund. By way of background, the State of Montana Board of Investments oversees the INTERCAP Loan Program providing low interest loans to Montana local governments, state agencies and universities for a variety of purposes. INTERCAP is a variable rate loan program, hence the dollar amount is limited by statute as a variable rate bond purchased under a private negotiated sale to the MBOI INTERCAP. Counties normally seek INTERCAP loans for construction projects and/or major equipment purchases; however, the use of INTERCAP loan funds is also applicable for Special or Rural Improvement District (SID and RID) projects. The RID statutes define the repayment structure under MBOI INTERCAP on RID bonds. City or county funds must secure the SID/RID with a pledge to levy for and maintain their revolving fund for the maximum amount permitted by law. All local government SID/RIDs and the balance in the revolving fund are subject to review as part of the loan process. The maximum loan limit is \$500,000 and MCA 7-12-2171(b) requires loans exceeding \$250,000 to have underwriter opinions that the bonds are not marketable through competitive bond sale (two opinions are required). For a period, INTERCAP was able to purchase RID bonds up to \$500,000 with at least two non-marketability opinions from underwriters. At that time those opinions were easy to acquire since RID bonds of that size were difficult to market in competitive sales and the cost to market the bonds outweighed the value. Since the 2008 market



crisis underwriters are not comfortable providing non-marketability opinions, as they might be perceived as acting as a financial advisor with fiduciary responsibility in the transaction under new Securities and Exchange Commission (SEC) regulations. Although the MCA states "\$500,000 or less," the amount is realistically stifled at \$250,000. These restrictions place an inordinate limitation on counties needing to finance major RID projects. In Cascade County, one proposed RID project (Fox Farm Road/Dune Drive) had an estimated cost of \$4+ million. Because counties must front the engineering, easement purchase, and construction costs and repayment occurs via a 15-20 year term assessment from the residents within the SID/RID, this loan limitation is unrealistic for large road projects. Cascade County would suggest removing this restriction in the INTERCAP Loan program, allowing RSIDs to the same level (\$2 million) without a vote of the people or and underwriter opinion.

The history on the \$250,000 limitation stems back to a private sector brokerage firm (underwriter) influence in crafting the original legislation.

If specific language was struck from MCA 7-12-2217(1)(b) and 7-12-4203(1)(b), it would help both cities and counties with existing road and RID projects, allowing projects up to the \$2 million ceiling.

By way of example, in 2017-2018 Cascade County initiated an RSID for the Fox Farm Road project. The total cost of the project was \$4 million; and with the INTERCAP restriction, the County had to was required to commit valuable funds as a 20-year loan repayment, rather than repayment of and INTERCAP loan.

This bill passed on third reading in the House on a vote of 64-36 and was referred to the Senate Local Government Committee on February 14, 2019.

**7. HB 372: Increase Inflation limitation on Government Entities for Property Tax**

**SUPPORT**

Primary Sponsor: Tom Welch, HD 72, Dillon

Cascade County supports this bill providing counties with greater ability to increase mills to keep pace with inflation. During the 2001 Legislature, MCA 15-10-420(I)(a) was amended to allow government entities to impose a levy sufficient to generate the amount of property taxes assessed the previous year, plus one-half the average rate of inflation for the prior three years. This methodology has yielded an average inflation adjustment of approximately 1.09% since 2001. This adjustment has not kept pace with the inflation rates facing counties when establishing COLAs for their employees, rising expenses for employee benefits, and the rising costs of goods and services. **This bill removes the "one-half" language, allowing a mill increase at a state-calculated rate of inflation averaged over the prior three years.**

This bill was tabled in the House Taxation Committee on January 22, 2019

**8. SB 161: Allow Concurrent Service as W/S Director and Rural Fire Trustee**

**SUPPORT**

Primary Sponsor: Tom Jacobson, SD 11, Great Falls

Cascade County supports this bill allowing an exemption from the restriction on holding one public office. A person may run unopposed for director on a water/sewer district and a rural fire district position. By definition, "unopposed" means the number of candidates for each board of directors or board of trustees is equal to or less than the number of positions available on each respective board. Many small communities have a difficult time recruiting volunteers to serve on boards. This exemption will allow folks to fill positions on more than one board when other community members have not stepped up to serve.

This bill passed on third reading in the Senate on a vote of 44-5 and is scheduled for a hearing in the House State Administration Committee on March 13, 2019

**9. HB 635: Establish a DUI reduction grant program**

**SUPPORT**

Primary Sponsor: Wendy McKamey, HD 19, Cascade

Cascade County supports this bill to correct for inflation the beer and wine taxes, creating approximately \$7 million annually to fund the evidence-based proposals for substance abuse prevention education in schools and communities; and provide increased funding for DUI law enforcement, DUI treatment courts, and treatment/education of indigent DUI offenders. Funding will come from the segment of the population contributing to the DUI problem and does not reduce current revenue streams counties receive for prevention



and treatment organizations. The bill corrects the inflation revenue every five years. Wine taxes have not changed since 1985; hard cider and beer tax rates since 1997.

This bill is scheduled for a hearing in the House Taxation Committee on March 12, 2019

**10. SB 26: Remove Requirement for State to Pay for Certain Prosecution Witness Fees **OPPOSE****

Primary Sponsor: Steve Fitzpatrick, SD 10, Great Falls

Cascade County opposes this bill because it eliminates current policy requiring the Office of Court Administration (MT Supreme Court) to pay the costs of expert witnesses subpoenaed on behalf of the attorney general or a county attorney in a criminal proceeding. According to the bill, the Attorney General may reimburse a county for fees up to the amount appropriated for witness expenses (that amount is not specified in the bill). If funding appropriated is insufficient to fully fund those expenses, the county is responsible for the payment of the balance. This decision clearly shifts the burden of expense from the state directly to the county. Cascade County expends on average \$10,000 each year on expert witness travel and testimony services. Current law specifies these costs are to be reimbursed by the Office of Administrator. This bill legitimizes the refusal of the MT Supreme Court to reimburse the counties for these costs.

This bill passed on third reading in the Senate on a vote of 34-12 and had its first reading in the House Judiciary Committee on January 23, 2019

**11. House Appropriations Request for Bill Draft Possibly for HB 2: **OPPOSE****

Relating to use of Entitlement Funds to pay for Certain Public Defender Costs

Cascade County opposes a proposal to reduce the county's entitlement allocation to help the state pay for its shortfall in their costs for the Public Defenders system. By way of background, in the 2007 legislative session, a bill was enacted that transferred the costs and all management of the Public Defender system from the counties to the state. The bill estimated the ongoing costs to the state and reduced the entitlement share of all counties to supply the needed funding for the state assumption of the Public Defender program. Further, the bill specified that in the next session of the legislature the costs assumption would be compared to actual costs and the county's entitlement shares would be adjusted to "true up" the funding shift. Once that "truing up" adjustment was made, the counties were disconnected from any fiscal responsibility for the Public Defender system. In the years since the state assumed the Public Defenders system, the state has experienced increased costs, much a result of their own making. The salaries of attorneys in the Public Defenders offices are considerably higher than those in the County Attorney's office, although the workload and work complexity is comparable. Cascade County has also seen increases in the criminal side of the County Attorney's office due to increasing criminal cases. Abuse and neglect cases have risen from 343 in 2014 to 433 in 2018; and criminal cases have increased from 540 in 2014 to 839 in 2018. The County has had to increase the County Attorney's budget over time and expends approximately \$1.9 million each year for criminal prosecution. In 2018, the County Attorney's office filed over 830 felony and more than 1000 misdemeanor cases.

This proposal would bill counties for the state's increasing costs for the Public Defender system over which counties have no control, no authority and no fiscal responsibility. State management of the Public Defender system has been a fiscal problem for the state and now there is an attempt to further reduce the counties entitlement share to finance increased criminal prosecutions and the state's rising costs of management. This proposal is a classic shifting of the state's financial burden to the counties.



## **Following are additional legislative considerations for your information**

### **12. MACo Policy #16 from the Health & Human Services Committee:**

**SUPPORT**

#### **Reauthorization of Medicaid Expansion**

Cascade County supports the reauthorization of Medicaid Expansion in Montana. The HELP ACT, which extended health care coverage to Montana residents, expires in July 2019. More than 96,000 Montanans have enrolled in Medicaid expansion, keeping Montana's uninsured rate at approximately one-half the rate before Medicaid expansion began in 2016. Bureau of Business and Economic Research (BBER) studies concluded Medicaid expansion introduced between \$350-\$400 million of new spending into Montana's economy each year from jobs and associated medical business. BBER further reported that Medicaid expansion improves outcomes for Montanans by reducing crime, improving health and lowering debt. In 2016 and 2017, Montanans taking advantage of Medicaid expansion received more than \$800 million in health care (those are federal funds that would not have been spent in Montana otherwise). These beneficiaries resulted in fewer unpaid hospital bills, helping rural hospitals and hospitals with a high number of Medicaid eligible patients. And, Medicaid expansion saved Montana counties \$10.5 million in health care for inmates by covering care at Medicaid rates any illness or injury which required hospitalization beyond a 24-hour period. Medicaid expansion has also helped stabilize the revenues for the Cascade County Community Health Care Center, as more patients have health benefits and seek preventative medical at this clinic, rather than crisis care in a hospital emergency room.

### **13. Mental Health Crisis and Regional Jails**

Mental health issues touch families across Montana; and Montanans with mental health issues are often unnecessarily housed in regional jails during times of crisis. Many of these individuals have committed misdemeanors, minor offenses like disturbing the peace or petty theft caused by delusional episodes. Due to a reduction in community services and reductions in payments to providers, many regional jails have become the proxy facility for housing Montanans in mental health crises. Diverting these individuals to appropriate mental health facilities is a priority but is not easily accomplished. With the limited number of beds at Warm Springs and the absence of a mental health crisis center in Great Falls, the regional jail becomes the alternative facility for residents suffering with mental health issues. This is far from an ideal situation. Due to its limited capacity, Warm Springs prioritizes vacancies for patients who have received a psychological assessment and been assigned by the court to the state facility. Those individuals who are not in crisis but have committed minor crimes are often kept in the regional jail until a mental health evaluation can be done by the state and an opening is available at Warm Springs. Some are detained in the regional jail for long periods until these arrangements are available; in the Cascade County facility one offender has been waiting over 850 days for an opening at Warm Springs.

Cascade County sees the need to create a crisis bed facility, but funding for the development and sustained management of such a facility is not achievable given the relatively flat tax base. Cascade County currently sets aside \$1/resident (approx. \$82,000) to supplement the Center for Mental Health's budget in providing crisis management training for first-responders and a Crisis Intervention Training (CIT) and Crisis Response Team (CRT) to evaluate an individual's situation and divert them from a conviction and unnecessary incarceration. Every attempt is made to prevent incarceration, which can exacerbate mental health issues and escalate a mental health crisis. Cascade County is also evaluating the establishment of a pre-trial diversion program to divert offenders with mental health issues into productive treatment, rather than incarceration. Funding will need to be diverted from other county priorities to finance this initiative. The County will continue to seek long-term resolutions for our citizens suffering with mental health issues, but lack of funding continues to be a challenge.



#### **14. An Act Transferring Juvenile Parole Supervision from DOC to Youth Court**

**OPPOSE**

DOC is seeking legislation to transfer their responsibility for supervising juveniles released from a juvenile correctional facility to the local juvenile probation offices and originating court jurisdiction where the youth offended. DOC believes they cannot maintain a statewide presence of trained and dedicated staff to handle juveniles when the number of youths on parole is very small. Because Juvenile Probation has the expertise and knowledge, and officers in each of the 22 judicial districts (providing coverage for the entire state), DOC wishes to transfer their responsibility to Juvenile Probation in the local jurisdictions. DOC believes transferring supervision to Juvenile Probation will improve service to youth and their communities and be more cost effective for the state. As represented in the Governor's budget, page D-54, this legislation shifts the burden of services and its attendant expense to local government, as cost savings to the DOC would be re-absorbed into the state operation rather than distributed to the local level. This legislation illustrates the "shift of burden" philosophy which is opposed by both the county and city.

More specifically, this legislation seeks to:

- transfer juvenile parole supervision from the Department of Corrections to the Youth Court
- change the term "parole" to "conditional release" and define the term "conditional release"
- provide that establishment of a youth placement committee be permissive rather than mandatory
- provide a procedure within the youth court for conducting a conditional release revocation hearing

Additional issues to be considered:

- additional workload and costs for services and placements provided by Juvenile Probation
- costs previously paid by the DOC (transportation and detention) will shift to the counties
- the cost of the DOC FTE will be transferred to OCA rather than redistributed to counties
- DOC Juvenile Community Corrections budget is to be transferred to OCA rather than distributed to counties

This proposal was tabled in House Judiciary but has recently been referred to the House Appropriations.

Great Falls and Cascade County leaders are committed to tracking legislative actions that may affect our region. We are available for questions on evolving legislation. Please contact us.

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County Commissioner Jim Larson	454-6816 (office) / 799-6536 (cell)	jl Larson@cascadcountymt.gov





The Montana Association of Counties (MACo) was organized in 1909 to anticipate rapidly changing and complex challenges facing Montana's 56 county governments. The following Bills match with MACo Resolutions adopted by deliberative assembly at the September 2018 MACo Annual Convention in Missoula, MT and affecting Cascade County.

### Montana Association of Counties Relating MACo Resolutions to 2019 Legislation

Bill No.	Short Title	Res. No.	Sponsor	Bill Short Title/Description
HB 120	Revise local government authority of certain speed limits	2018-19	Willis Curdy HD 98	A bill for an act entitled "An act revising where a local authority and a county commission may set speed limits, and amending Section 61-8-310, MCA"
HB 123	Generally revise sewer district laws	2018-09	Alan Doane HD 36	An act revising methods of cost assessment for metropolitan sanitary and storm sewer districts, amending Section 7-13-121, MCA and providing an immediate effective date
HB 124	Authorize county commissioner to lift agricultural covenants – limited situation	2018-11	Forrest Mandeville HD 57	An act generally revising provisions concerning agricultural covenant under the subdivision and platting act: clarifying that a change in use subjects certain exemptions to subdivision review; allowing a governing body to revoke certain exemptions if there is a change in use; providing exceptions; and amending section 76-3-207, MCA
HB 131	Specifying a county attorney's obligation in certain legal matters	2018-04	Forrest Mandeville HD 57	A bill for an act entitled: "An act specifying a county attorney's obligation in certain legal matters; and amending Section 7-4-2711, MCA
HB 154	Generally revise laws related to disposal and destruction of public records	2018-07	Katie Sullivan HD 89	A bill for an act entitled: An Act revising record retention requirements for local government records' and amending Section 7-4-222, MCA
HB 190	Revise local government authority to set school zone speed limits	2018-20	Bruce Grubbs HD 68	A bill for an act entitled: An act allowing a local authority to set a speed limit in a school zone or near a senior citizen center without an engineering and traffic investigation; and amending section 61-8-310, MCA
HB 306	Revise when a person may be subject to a strip search	-----	Barry Usher HD 40	A bill for an act entitled: An act revising when a person may be subject to a strip search; and amending Section 46-5-105, MCA TABLED IN COMMITTEE
HB 372	Increase inflation limitation on government entities for property tax levies	2018-03	Tom Welch HD 72	A bill for an act entitled: An act increasing the rate of inflation limitation imposed on government entities for calculating property tax levies; increasing the rate of inflation limit from one-half the average rate of inflation to the average rate of inflation; allowing a government entity to impose additional mills when there is inflation; amending Section 15-10-420, MCA and providing an applicability date. TABLED IN COMMITTEE
HB 401	Revising local government laws relating to invasive species	2018-10	Greg Hertz HD 12	A bill for an act entitled: An act generally revising local government laws related to invasive species; authorizing invertebrate pest programs; providing definitions' authorizing cooperative agreements; authorizing an invertebrate pest management tax; revising ordinances that can be adopted by a county located within the Columbia River Basin; authorizing quarantine measures; providing penalties; and amending Sections 7-22-2501, 7-22-2502, 7-22-2503, 7-22-2511, 7-22-2512, 7-22-2513, and 7-22-2601, MCA



Bill No.	Short Title	Res. No.	Sponsor	Bill Short Title/Description
HJ 1	Interim study on voter qualifications for all special purpose districts	2018-08	Denise Hayman HD 66	A joint resolution of the Senate and the House of Representatives of the State of Montana requesting an interim legislative study of voter qualifications in all special purpose district elections
SB 104	Allow counties to establish county auditor as part-time office	2018-02	Roger Webb SD 23	A bill for an act entitled: An act generally revising laws related to the office of county auditor; allowing a county to create a full-time; part-time; or combination position for the office of county auditor; and amending Section 7-6-2401, MCA
SB 165	Remove unusable mobile homes for property tax rolls	2018-14	Margie MacDonald SD 26	A bill for an act entitled: An act revising property taxes on certain destroyed property and abandoned movable house; providing an exemption for uninhabitable movable house' providing definitions' amending Section 15-6-219, MCA and providing an applicability date
SB 198	Providing legal access to parcels exempt from subdivision review	2018-16	Jason Ellsworth SD 43	A bill for an act entitled: An act generally revision subdivision laws, providing criteria to determine legal access to parcels exempt from subdivision reviews, and amending Section 76-3-504, MCA